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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
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EXAMINER

CHIN, PAUL T

ART UNIT	PAPER NUMBER
3652	

DATE MAILED: 12/20/2002

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No. <b>09/849,006</b>	Applicant(s) <b>Bliss et al.</b>
Examiner <b>Paul T. Chin</b>	Art Unit <b>3652</b>

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136 (a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

1)  Responsive to communication(s) filed on 5/4/02 and Oct 1, 2002

2a)  This action is FINAL. 2b)  This action is non-final.

3)  Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11; 453 O.G. 213.

4)  Claim(s) 1-24 is/are pending in the application.

4a) Of the above, claim(s) 11 and 23 is/are withdrawn from consideration.

5)  Claim(s) \_\_\_\_\_ is/are allowed.

6)  Claim(s) 1-10, 12-22, and 24 is/are rejected.

7)  Claim(s) \_\_\_\_\_ is/are objected to.

8)  Claims \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

9)  The specification is objected to by the Examiner.

10)  The drawing(s) filed on May 4, 2002 is/are a)  accepted or b)  objected to by the Examiner. Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

11)  The proposed drawing correction filed on \_\_\_\_\_ is: a)  approved b)  disapproved by the Examiner. If approved, corrected drawings are required in reply to this Office action.

12)  The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

13)  Acknowledgement is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)  All b)  Some\* c)  None of:

1.  Certified copies of the priority documents have been received.
2.  Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3.  Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\*See the attached detailed Office action for a list of the certified copies not received.

14)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. § 119(e).

a)  The translation of the foreign language provisional application has been received.

15)  Acknowledgement is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

### Attachment(s)

1)  Notice of References Cited (PTO-892)

2)  Notice of Draftsperson's Patent Drawing Review (PTO-948)

3)  Information Disclosure Statement(s) (PTO-1449) Paper No(s). 4

4)  Interview Summary (PTO-413) Paper No(s). \_\_\_\_\_

5)  Notice of Informal Patent Application (PTO-152)

6)  Other: \_\_\_\_\_

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## **DETAILED ACTION**

### ***Election/Restriction***

1. Applicant's election of the species of Figs. 1-4 in Paper No. 7, readable on claims 1-10,12-22, and 24, is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)).
2. Claims 11 and 23 are withdrawn from further consideration pursuant to 37 CAR 1.142(b) as being drawn to a nonelected election of species of Figs. 5-13, there being no allowable generic or linking claim. Election was made without traverse in Paper No. 7.

### ***Drawings***

3. The drawings are objected to under 37 CAR 1.83(a). The drawings must show every feature of the invention specified in the claims. Therefore, the "*at least one degree of freedom*" (claims 1 and 13) must be shown or the feature(s) canceled from the claim(s). No new matter should be entered.

A proposed drawing correction or corrected drawings are required in reply to the Office action to avoid abandonment of the application. The objection to the drawings will not be held in abeyance.

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***Specification***

4. The disclosure is objected to because of the following informalities: on page 1, line 4, a phrase -- now U.S. Patent No. 6,237,978, -- should be inserted before "which.". Appropriate correction is required.

***Claim Objections***

5. Claims 8 and 20 are objected to under 37 CAR 1.75(c), as being of improper dependent form for failing to further limit the subject matter of a previous claim. Applicant is required to cancel the claim(s), or amend the claim(s) to place the claim(s) in proper dependent form, or rewrite the claim(s) in independent form. Claims 8 and 20 recite a limitation of "the second end of the first link being rotatably connected to the corresponding plate" which is already recited in the previous claims 7 and 19.

***Claim Rejections - 35 U.S.C. § 112***

6. The following is a quotation of the second paragraph of 35 U.S.C. 112:

The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.

7. Claims 1-10, 12-22, and 24 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.

The phrases "*at least one degree of freedom at least when the gripping plate is in the open position and in the closed position*" (claim 1, lines 11-12) and "*at least one degree of freedom at least when the gripping plate is being moved from the closed position to the open*

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*position*" (claim 13, lines 14-16) are not clearly understood. It is confusing the exact meaning of the second "at least" of the claimed language.

***Claim Rejections - 35 U.S.C. § 102***

8. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless --

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

8. Claims 1-4,7,8,12,13,16-20, and 24, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by **Slezak et al. [5,163,727]**.

Re claims 1,4,13, and 18, Slezak et al ['727] discloses a gripping apparatus having a pickup head (312,330) (see Fig. 11); a plurality of gripping plates (226,250,260); a restraining device (229) corresponding to each gripping plate wherein the gripping plate is movable between an open position and a closed position; and an actuation device (241,241) to move the gripping plate between the open position and the closed position. It is pointed out that Slezak's gripping apparatus includes the gripping plate being movable relative to the pickup head in the at least one degree of freedom.

Re claims 2,3,16, and 17, Slezak's gripping apparatus ['727] shows the actuation device including at least one pneumatic or air cylinder (241).

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Re claims 7,8,19, and 20, Slezak's gripping apparatus ['727] shows the restraining device including a linkage system having a first link (229) which has a first end rotatably connected to the pickup head and a second end rotatably connected to the gripping plate.

Re claims 12 and 24, Slezak's gripping apparatus ['727] shows the gripping plate which is curved (see Fig. 3).

8. Claims 1,4,7,8,12,13,18,19,20, and 24, as understood, are rejected under 35 U.S.C. 102(b) as being anticipated by **Seaberg et al. [5,417,464]**.

Re claims 1,4,13, and 18, Seaberg et al. [5,417,464] discloses a gripping apparatus having a pickup head (see Fig. 2) located under a member (18); a plurality of gripping plates (14,16); a restraining device (20,22) corresponding to each gripping plate wherein the gripping plate is movable between an open position and a closed position; and an actuation device (30,32) to move the gripping plate between the open position and the closed position. It is pointed out that Seaberg et al.'s gripping apparatus includes the gripping plate being movable relative to the pickup head in the at least one degree of freedom.

Re claims 7,8,19, and 20, Seaberg et al.'s gripping apparatus ['464] shows the restraining device including a linkage system having a first link (20,22) having a first end rotatably connected to the pickup head and a second end rotatably connected to the gripping plate (14,16).

Re claims 12 and 24, Seaberg et al.'s gripping apparatus ['464] shows the gripping plate which is curved (see Fig. 2).

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***Claim Rejections - 35 U.S.C. § 103***

9. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

10. Claims 2,3,16, and 17, as best understood, are rejected under 35 U.S.C. 103(a) as being unpatentable over Seaberg et al.'s gripping apparatus ['464] in view of **Barnett et al. [3,695,670]**.

Seaberg et al.'s gripping apparatus ['464], as presented in section 8 above, shows the actuation device which is a hydraulic cylinder. Seaberg et al.'s gripping apparatus ['464] does not show *an air cylinder*.

However, **Barnett et al. [3,695,670]** shows an actuation device which is a pneumatic cylinder.

Accordingly, it would have been obvious to provide *a pneumatic cylinder* (instead of a hydraulic cylinder) on the Seaberg et al.'s gripping apparatus ['464] as taught by Barnett et al. [3,695,670] so that the gripping plate can softly grasp the item.

***Double Patenting***

11. The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or

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improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

12. **Claims 1-3,5-10,12-17,19-22, and 24** are rejected under the judicially created doctrine of obviousness-type double patenting as being unpatentable over **claims 1-3,7-10,12,16-20, and 24-27, of U.S. Patent No. 6,06,341**. <sup>6,056,341</sup> Although the conflicting claims are not identical, they are not patentably distinct from each other because both of the application and the above patent recite an apparatus for gripping and releasing at least one item comprising a pickup head; a plurality of gripping plates or fingers; a restraining device corresponding to each gripping plate wherein the gripping plate is movable between an open position and a closed position; an actuation device including one pneumatic or air cylinder; the restraining device including a linkage system having a

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first link having a first end rotatably connected to the pickup head and a second end rotatably connected to the gripping plate; and a second link having a first end connected to the pickup head and a second end connected to the gripping plate through a pin; the second end of the second link having a slot wherein the gripping plate being slidably arranged to the slot; and one end of the gripping plate is curved.

*Conclusion*

13. The prior art made of record and not relied upon is considered pertinent to applicant's disclosure.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Paul T. Chin whose telephone number is (703) 305-1524. The examiner can normally be reached on Mon-Thurs from 7:30 am to 6:00 pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Eileen Lillis, can be reached on (703) 308-3248. The fax phone number for the organization where this application or proceeding is assigned is (703) 872-9326 for regular communications and (703) 872-9327 for after finals.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (703) 306-4177.

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PTC

December 6, 2002

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